

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE) MDL No. 1456
LITIGATION) Civil Action No. 01-12257-PBS

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THIS DOCUMENT RELATES TO:) Subcategory No. 06-11337-PBS
) Hon. Patti B. Saris
*United States of America ex rel. Ven-a-Care of)
the Florida Keys, Inc. v. Abbott Laboratories,)
Inc., Civil Action No. 06-11337-PBS;)
)
*United States of America ex rel. Ven-a-Care of)
the Florida Keys, Inc. v. Dey, Inc., et al., Civil)
Action No. 05-11084-PBS; and)
)
*United States of America ex rel. Ven-a-Care of)
the Florida Keys, Inc. v. Boehringer)
Ingelheim Corp., et al., Civil Action No. 07-)
10248-PBS)***

**DECLARATION OF GEORGE B. HENDERSON, II
SUBMITTING COMMON EXHIBITS IN SUPPORT OF
MOTIONS FOR PARTIAL SUMMARY JUDGMENT**

I, George B. Henderson, II, do hereby declare as follows:

1. I am an Assistant U.S. Attorney in the Office of the United States Attorney, District of Massachusetts. I am a member in good standing of the bar of this Court.
2. On behalf of the plaintiff United States of America, I am submitting with this declaration Exhibits in support of the United States' Local Rule 56.1 Statement of Undisputed Material Facts Common to All Defendants.
3. The following exhibits are true and correct copies of the materials described therein and submitted with this declaration:

Ex. #	Description
1.	Facsimile from Kristen Thomas of Palmetto Government Benefits Administrators (GBA), a Medicare Region C Durable Medical Equipment Regional Carrier, to Robert Vito of the Department of Health and Human Services, Office of Inspector General, regarding Palmetto's internal procedure for drug pricing, dated October 19, 1994, Bates HHD008-0282-0287, previously marked as Abbott Exhibit 524.
2.	Letter from Robin Stone of GBA to Marvin Stoogenke of the Health Care Financing Administration (HCFA) and Colleen Carpenter of the Office of the Consortium/Regional Administrators, regarding a November 15, 1999 letter to all Region IV Carriers and Intermediaries referencing the Uniform Drug Pricing Project, dated December 1, 1999, Bates AWQ025-0876-0887, previously marked as Roxane Exhibit 42.
3.	Declaration of Carolyn Helton, employee of CIGNA Government Services, executed July 23, 2009.
4.	Excerpts from the deposition of Robert Niemann, taken on October 11, 2007.
5.	Excerpts from the deposition of David Tawes, taken on April 25, 2007.
6.	Excerpts from the deposition of Robert Vito, taken on June 20, 2007.
7.	Excerpts from the deposition of Charles R. Booth, taken on April 23, 2007.
8.	Biographical Sketch of Charles R. Booth, previously marked as Abbott Exhibit 112.
9.	Medicare Payments for Currently Covered Prescription Drugs: Excerpt from Hearing before the Subcommittee on Health of the House Committee on Ways and Means, October 3, 2002 (statement of Representative Stark).
10.	Excerpts from the deposition of Douglas B. Hillblom, taken on September 23, 2008.
11.	Excerpts from the deposition of Jerry Dubberly, taken on December 15, 2008.
12.	Excerpts from the deposition of James Parker, taken on November 18, 2008.
13.	Excerpts from the deposition of Gary Cheloha, taken on December 3, 2008.

Ex. #	Description
14.	Excerpts from the deposition of Edward J. Vaccaro, taken on December 2, 2008.
15.	Excerpts from the deposition of Robert Stevens, taken on December 15, 2008.
16.	Excerpts from the deposition of Lisa Weeks, taken on October 21, 2008.
17.	Excerpts from the deposition of Ann Rugg, taken on December 15, 2008.
18.	Excerpts from the deposition of Keith T. Hayashi, taken on December 4, 2008.
19.	Excerpts from the deposition of Suzette Bridges, taken on December 10, 2008.
20.	Excerpts from the deposition of Joseph L. Fine, taken on December 9, 2008.
21.	Excerpts from the deposition of Lise C. Farrand, taken October 28, 2008.
22.	Excerpts from the deposition of Margaret Clifford, taken on October 29, 2008.
23.	Excerpt from the deposition of Ayuni Hautea-Wimpee, taken on November 24, 2008.
24.	Declaration of Kristopher Knerr, executed July 23, 2009 (Knerr Decl.). (PTS. A - K)
25.	Declaration of Kristin A. Fan, executed July 13, 2009 (Fan Decl.).
26.	Excerpts from the deposition of Kristen Minne, taken on November 18, 2008.
27.	Letter from Lawrence L. McDonough, Associate Regional Administrator, Division of Medicaid, to Winona E. Rubin, Director, Hawaii Department of Health and Human Services, regarding a request for technical assistance in developing a State Plan Amendment, dated October 24, 1991, Bates HHC016-0603-0606.
28.	Letter from Winona Rubin to Lawrence McDonough regarding transmittal of State Plan Amendment HCAD # 92-08, dated May 13, 1992, Bates HHC016-0586-0587.

Ex. #	Description
29.	Compilation of correspondence with attachments, including letter from Dennis G. Smith, Director, Center for Medicaid and State Operations, to John Stephen, Commissioner, New Hampshire Department of Health and Human Services, regarding review of New Hampshire state plan amendment, Bates NH00092-00105, first fourteen pages of previously marked Dey Exhibit 95.
30.	Letter from David Adams, Pharm D. of First Health Services Corporation to Jeremy Masett, Medicaid Analyst of Dey, L.P., regarding NMPI Pooling Rebate Agreement, with an attached executed copy of agreement, Bates DEY-LABS-0360178-0360200, select pages of previously marked Dey Exhibit 96.
31.	Letter from Dennis G. Smith to Patrick J. O'Connell, Assistant Attorney General, Texas Office of the Attorney General, regarding request for guidance with regard to the reporting of prices to the Vendor Drug Program of the Health and Human Services Commission of Texas, dated May 3, 2004.
32.	Excerpts from the deposition of Larry Reed, taken on October 2, 2008.
33.	Excerpts from the deposition of Larry Reed, taken on September 26, 2007.
34.	Excerpts from the deposition of Larry Reed, taken on September 27, 2007.
35.	Excerpts from the deposition of Bruce C. Vladeck, taken on June 21, 2007.
36.	Excerpts from the deposition of Deirdre Duzor, taken on February 27, 2008.
37.	Excerpts from the deposition of Sue Gaston, taken on March 19, 2008.
38.	Excerpts from the deposition of Robert Vito, taken on February 6, 2008.
39.	U.S. Government Accountability Office report entitled Payments for Covered Outpatient Drugs Exceed Providers' Costs (GAO-01-1118), dated September 21, 2001.
40.	Declaration of Susan Gaston, executed July 15, 2009. (PTS. A and B)
41.	Declaration of Mark Duggan, PhD, executed July 23, 2009 (Duggan Decl.). (PTS. A and B)

Ex. #	Description
42.	Order regarding Motion of Defendants to Dismiss the Government's Complaint in Intervention in <i>U.S. ex re. Bunk et al. v. Birkart Globistics GmbH & Co., et al.</i> , No. 1:02cv1168 (E.D. Va. July 20, 2009), dated July 20, 2009.
43.	Excerpts from the deposition of J. Kevin Gorospe, taken on December 3, 2008.
44.	Declaration of William S. Lasowski, executed July 20, 2009.

I swear under the penalties of perjury that the foregoing statements are true and correct.

/s/ George B. Henderson, II

George B. Henderson, II
Assistant U.S. Attorney

Executed this 24th day of July, 2009